

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

11-CR-392-S

ROGER S. LUCZKOWIAK,

Defendant.

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**STATEMENT OF THE GOVERNMENT**  
**WITH RESPECT TO SENTENCING FACTORS**  
**AND MOTION PURSUANT TO U.S.S.G. §3E1.1(b)**

**PLEASE TAKE NOTICE**, that the government hereby adopts all findings of the Pre-sentence Report with respect to sentencing factors in this action.

Should the defendant present any letters of support or sentencing statement to the Court, the United States will move to strike the items from the record if this office is not provided with copies at least three business days prior to sentencing.

The defendant is required by 18 U.S.C. §3013 to pay the sum of \$100 due at sentencing at the time of sentencing. Immediately after sentencing, the defendant must pay the amount due by personal

check, cashier's check or certified funds to the United States District Court Clerk.

The Court may order restitution for the full amount of the victims' compensable losses. Please note that on April 17, 2012, the U.S. Attorney's office reviewed a restitution request from the identified victim in the "Cindy" series of child pornography in the amount of \$73,447.19. However, pursuant to United States v. Aumais, 656 F.3d 147 (2d Cir. 2011), the government does not believe that restitution is appropriate in this case. The government has been in communication with legal counsel for "Cindy" who understands and accepts the government's position. The restitution package has been forwarded to probation and defense counsel.

In the event present counsel for the defendant will continue to represent the defendant after sentencing in regard to the collection of unpaid financial obligation(s), it is requested that a letter so advising be sent to:

Asset Forfeiture/Financial Litigation Unit  
U.S. Attorney's Office--WDNY  
138 Delaware Avenue  
Buffalo, New York 14202

If a letter is not received within 10 days of sentencing, the defendant will be directly contacted regarding collection of the financial obligation(s).

Upon the ground that the defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, the government hereby moves the Court to apply the additional one (1) level downward adjustment for acceptance of responsibility pursuant to U.S.S.G. §3E1.1(b).

DATED: Buffalo, New York, April 20, 2012

Respectfully submitted,

WILLIAM J. HOCHUL, Jr.  
United States Attorney

***S/ AARON J. MANGO***

BY:

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AARON J. MANGO  
Assistant United States Attorney  
United States Attorney's Office  
Western District of New York  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 2012, I electronically filed the foregoing **STATEMENT OF THE GOVERNMENT WITH RESPECT TO SENTENCING FACTORS AND MOTION PURSUANT TO U.S.S.G. §3E1.1(b)** with the Clerk of the District Court using its CM-ECF system, which would then electronically notify the following CM/ECF participant on this case:

John F. Humann, AFD

I further certify that the foregoing was provided via inter office mail to the following participant on this case:

David W. Ball  
U.S. Probation Officer

***S/ KATHLEEN M. RIEMAN***

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KATHLEEN M. RIEMAN